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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,410	04/20/2004	Harold E. Erwin	BGPI.112790	4532
5251 7590 06/14/2007 SHOOK, HARDY & BACON LLP INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BLVD KANSAS CITY, MO 64108-2613			EXAMINER DRODGE, JOSEPH W	
			ART UNIT 1723	PAPER NUMBER
			MAIL DATE 06/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/828,410

Applicant(s)

ERWIN, HAROLD E.

Examiner

Joseph W. Drodge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 0704.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7 and 9-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Flynn patent 6,298,947. Flynn discloses for claims 1 and 13, cleaning a fluid system in a vehicle with a device (Abstract, device 44) comprising a container 11 with enclosed filter 52, 1<sup>st</sup> conduit or fluid supply 31 from fluid system to container and 2<sup>nd</sup> conduit or fluid return 33 from container back to system. For dependent claims, Flynn also discloses the chamber defined by container walls receiving cleaning solution from reservoir 3 via conduits 28,30 for claims 2 and 14, the 1<sup>st</sup> conduit connected to "return line" 46 and 2<sup>nd</sup> conduit connected to "supply line" 45 for claim 3; pump or pressure administrator 26 for claims 4 and 15; vented cap 10 or column 3, lines 1-4 for claims 8 and 16; figure 4 showing additional caps for claim 9 the container having openings at one end to the cap attached to filter housing (figure 4) ; container also having induction port from 1<sup>st</sup> conduit to filter and exit port from filter to system return for claims 10-12 (see the figures); conduits and lines for claim 3 meeting limitation of line portions for claims 17-18, and steps of recirculating all of the fluid from the fluid system through the filter for claims 18 and 19 (column 2, lines 32-44).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn patent 6,298,947 in view of Bugar et al patent 4,986,904. Claims 5 and 6 differ in requiring the filter housing to be transparent; Bugar et al showing a fluid filter for cleaning recirculated fluid in a vehicle with such transparent housing (column 5, lines 26-30). It would have been obvious to one of ordinary skill in the art to have constructed the filter housing of Flynn to be transparent, as taught by Bugar et al, to enable viewing of the filter and container contents to ensure operator awareness of contamination and need to replace/service the filter. The housing of the Flynn container may have indicator or scale marks for claim 6 on the control console (column 3, lines 39-57).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn patent 6,298,947 in view of Habiger et al patent 5,374,355. Claim 8 requires there being a suspension hook atop the container operable for hanging the container. Such suspending hook is suggested by Habiger at column 4, lines 53-61. Such hook would

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have been an obvious expedient for accessing the filter housing so as to remove and replace or clean the filter.

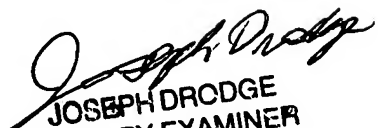
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Roy Sample, can be reached at 571-272-1376. The fax phone number for the examining group where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

June 8, 2007

  
JOSEPH DRODGE  
PRIMARY EXAMINER